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DWCNewsline

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Division of Workers' Compensation urges claims administrators to confirm they correctly paid temporary disability benefits for injuries that occurred on or after April 19, 2004

The Worker's Compensation Appeals Board (WCAB) on June 13, 2007, issued an en banc opinion in the case of Valeri Hawkins v. Amberwood Products; and State Compensation Insurance Fund, which holds that the two-year period of temporary disability (TD) payments commences when the first TD benefit is paid. The WCAB's decision states that "the date of commencement of temporary disability payment," as used in Labor Code section 4656(c)(1), means the date on which temporary disability indemnity is first paid, not the date for which temporary disability indemnity is first owed.

In light of this decision, the Division of Workers' Compensation (DWC) urges claims administrators to confirm they correctly paid TD benefits for injuries that occurred on or after April 19, 2004. If not, the claims administrator should immediately correct any underpayment, along with the 10 percent interest required by Labor Code section 4650. All injured employees who were still receiving TD payments at the end of two years should have received 104 weeks of payments from the date of the commencement of the TD payments. An oversight in this area could subject a claims administrator to penalties should a violation of the law be found during the audit process.

The full opinion can be found on the WCAB Web site at
http://www.dir.ca.gov/wcab/wcab_enbanc.htm.

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